



TOWN OF TYNGSBOROUGH

Office of the Selectmen

25 Bryant Lane

Tyngsborough, MA 01879

Tel: 978 649-2300 Ext. 100 Fax: 978 649-2320

APPROVED

Board of Selectmen Meeting Minutes

Monday, February 28, 2011

6:00 P.M.

Town Offices, 25 Bryant Lane

Members Present: Selectwoman Ashley O'Neill, Selectwoman Elizabeth Coughlin, Selectman Rick Reault, Selectman Rich Lemoine, Selectman Robert Jackson

Staff Present: Michael Gilleberto, Town Administrator, Therese Gay, Admin Assistant

The listing of matters are those reasonable anticipated by the Chairman which may be discussed at the meeting. Not all items listed may in fact be discussed, and other items not listed may also be brought up for discussion to the extent permitted by law. The Chair informed the public of the emergency exits to be used in the event of an emergency.

1. 5:00 PM Executive Session

The board moves to go into executive session to discuss strategy with respect to collective bargaining, litigation, or exempt negotiations if an open meeting may have a detrimental effect on such subject matters.

• Personnel

The Board voted on a motion by Selectman Lemoine, second by Selectman Jackson to enter into Executive Session to discuss strategy with respect to collective bargaining, litigation, or exempt negotiations as an open meeting may have a detrimental effect on such subject matters and to return to open session only to adjourn. Roll Call Vote: Selectman Jackson, yes; Selectman Lemoine, yes; Selectwoman Coughlin, yes; Selectwoman O'Neill, yes; Selectman Reault, yes. The Board entered into executive session at 5:00 P.M. Ending their discussion the Board exited the executive session at 5:55 P.M on a motion by Selectman Lemoine, second by Selectman Jackson. Roll Call Vote: Selectman Jackson, yes; Selectman Lemoine, yes; Selectwoman Coughlin, yes; Selectwoman O'Neill, yes; Selectman Reault, yes.

2. 6:00 PM Open Meeting

The Chairman called the meeting to order, the Board was introduced and the agenda read.

3. New Business

• 6:05 PM Joint meeting with Planning Board

The Planning Board Members present are: Member Steve Nocco, Member Steve O'Neill, Member William Grammer and Alternate Member Caryn DeCarteret. The Planning Board motioned by Member O'Neill, second by Member Graham to open the Planning Board meeting.

○ Appointment to fill current vacancy

The Planning Board has had a vacancy since the resignation of Mr. Miller. The Planning Board want to appoint Caryn DeCarteret from alternate member to a voting member. Ms DeCarteret has been on the Planning Board for many years as an alternate and as a voting member. Ms. DeCarteret is viewed by the Selectmen with respect and is an asset to the community, thank you for your continued service and assistance. Planning Board Member Steve Nocco motioned to appoint Caryn DeCarteret as a voting member, second by Member O'Neill. Roll Call Vote: Selectman Jackson, yes; Selectman Lemoine, yes; Selectwoman Coughlin, yes; Selectwoman O'Neill, yes; Selectman Reault, yes; Member Nocco, yes; Member O'Neill, yes; member Grammer, yes. The Planning Board voted to close their meeting on a motion by Member Grammer, second by Member O'Neill.

The Chairman announced that the schedule hearing is for 6:20 PM and there was a 15 minute wait has taken the following items out of order.

- **One Day Special License Request – Notre Dame Academy**

The Board received and reviewed the request from Notre Dame Academy for a one day special license for their annual spaghetti supper. The Board voted 4-1 on a motion by Selectman Lemoine, second by Selectman Reault to grant the request as submitted. Selectwoman O'Neill abstains from voting on the request because she serves on the Board of Directors at NDA.

- **One Day Special license Request – Greater Lowell Technical High School**

The Board received and reviewed the request from Greater Lowell Technical High School Superintendent for a one day special license for their annual superintendent's supper. The Board voted unanimously on a motion by Selectman Lemoine, second by Selectman Reault to grant the request as submitted. Selectman Jackson discloses that his wife is a substitute teacher at the high school and after speaking to Town Counsel learned that he is not in conflict with any laws and can vote to the application.

- **Town Building Access**

The Administrator updated the Board on the inspection held at the Littlefield Library building. The inspection showed that the building was non compliant of the life safety codes. The improvements have been done by the Historical Commission in the past. The building has been used recently used for civic activities. The locks have been rekeyed. The Historical Commission has been maintaining the building for security. The Board doesn't want to restrict anyone from using the building. The recreation building use policy will be reviewed to help generate one for other public buildings. Once the building is compliant the Historical Commission and the Cub Scout can resume meeting in the building. Some discussion on the prospect of having the Historical Commission continue to keep the Building compliant, the Administrator will consult with the Historical Commission. Selectman Jackson agrees that having a use policy in place would be a good idea and would benefit the entire community. Selectman Lemoine commented that the improvements to the Littlefield Library Building have been supported through the Community Preservation Committee and it would be nice to share with the whole community. The artifacts stored at the building can be safeguarded and if not there can be moved over to the Sherburne House. All of the Boards and Committees meet here at the town hall; the Historical Commission could also meet here. Selectwoman Coughlin commends the Historical Commission for being stewards for many years, good job. The building use document will be redrafted and will be ready for review sooner than later.

The Chairman returned to the agenda item scheduled for 6:20 PM. Members present at the hearing: Selectman Jackson, Selectman Lemoine, Selectwoman O'Neill, Selectman Reault. Selectwoman Coughlin recused herself and left the room.

6:20 PM Alcoholic Beverage Licenses:

- **Wine and Malt Restaurant License Request – New License - Feng Shui Express, Inc., 150 Westford Road**

The Board received an application for a wine and malt license for a new restaurant opening at 150 Westford Road. The paperwork was received sent to the Deputy for a CORI check. All of the paperwork looked in order and the CORI came back no activity. The Board voted 4-0 on a motion by Selectman Reault, second by Selectman Lemoine to open the hearing. The Clerk read the legal notice as printed in a local publication. The Board voted 4-0 on a motion by Selectman Reault, second by Selectman Lemoine to waive the reading of the abutters' list. The Chairman asked the petitioners to come forward and introduce themselves and to speak on the new restaurant. Mr. Frank Zhang and Mr. Steve Dong came forward. Mr. Zhang described the cuisine to be served at the restaurant it will be Asian cuisine, Chinese food and will also serve sushi, because of the size of the restaurant they will not be able to serve hibachi. Their hours will be Monday through Thursday from 11:30AM to 9:30PM on Friday and Saturday will 11:30AM to 11:00PM and Sunday from 11:30AM to 9:30PM. There was an address corrections on the personal information supplied and

was corrected. Selectman Lemoine welcomed Mr. Zhang and Mr. Dong to town and having the Asian restaurant in town is a great thing. Asked when they will be opening Mr. Zhang they will be open in July sooner if possible. Selectman asked about the license who had turned a license back to the town, it was the license held by the owners of Café Il Ciproso, they now have a full liquor license at their new location. Mr. Reault also welcomed the petitioners and offered to help if needed. Selectwoman O'Neill was excited that the restaurant is coming to town, welcome. The Board voted 4-0 on a motion by Selectman Lemoine, second by Selectman Reault to grant the request for the wine and malt license and common victualler license to Fengh Shui Express, Inc. with Frank Zhang as the manager of record.

- **Adams Barn – Use of Allocated Funds for Repairs**

The Town Administrator updated the Board on where the process is on restoring the Adams Barn. He is in contact with the Greater Lowell Voke School. They will need to see the report before they can commit to do the work. Mr. Allgrove has solicited free service from an analyst/contractor to assess the structure and he is waiting for a report and the Greater Lowell Voke School will make a recommendation once they see the report. Selectman Lemoine mentioned that the Economic Development Committee had an RFP done and the data should be available. Selectman Jackson is encouraged about the engineering analyses being done on the barn it is a positive step and thank you to all for your hard work.

4. Old Business

- **Designate Appointee for Sewer Design and Construction Committee**

The Board of Selectmen deliberated about their designee on the Sewer Design and Construction Committee. Selectman Jackson would have volunteered but right now he is on the Insurance Committee and couldn't commit to the time on the committee, Selectman Lemoine will not be serving as he is not seeking reelection. Selectman Reault has volunteered to serve, his term on the Sewer Commission is ending and he will be able to serve on this committee. The Board voted 4-0 on a motion by Selectman Lemoine, second Selectman Jackson to appoint Richard Reault as the Board's designee on the Sewer Design and Construction Committee.

- **Plumbing/Gas and Wiring Inspector – Appointments**

The interviews for the candidates have not taken place, the Administrator and the Building Commissioner will schedule the interviews and will bring the names of the two inspectors to be appointed, in the meanwhile the two interim inspectors should be appointed until Monday, March 14, 2011. The Board voted 4-0 on a motion by Selectman Jackson, second by Selectman Reault to appoint the interim inspectors Joseph Smith and Kenneth Kleynen as wiring inspector and plumbing and gas inspector term to expire Monday March 14, 2011.

The Board voted 4-0 on a motion by Selectman Reault, second by Selectman Jackson to recess for 5 minutes (6:50 pm). Selectwoman Coughlin returned to the room at 6:55 pm. The Board returned to session at 6:55 pm.

- **Electricity Supply Contract**

Selectwoman Coughlin and the Town Administrator have been working together reviewing electric supply rates and contract with the company that will give the Town a better rate. Selectwoman Coughlin coordinated the efforts to optimize our electricity rating and coordinating with the School Department. The Administrator had done a job of overlapping on looking at Net Metering. Selectman Lemoine offered to have CES review and also send the contract to Town Counsel to see to review to see which will be a better contract. Selectman Lemoine will forward the information to CES for review. Selectwoman Coughlin explained the Net Metering and how it allows the Town to purchased credits which are then utilized to offset your electric bill. Selectwoman Coughlin made a motion to move forward with an RFP for Net Metering contingent on Town Counsel's review. Discuss followed on the best options available to the Town. The motion was second by Selectman

Reault to move forward and consult with Town Counsel to review that the process is in the best interest of the Town. The voted as unanimous.

5. Citizen/Business Time- No one came forward.

Citizens or business owners may contact the Office of the Selectmen to request to address the Selectmen during citizen/business time. Citizens or business owners who have not contacted the Office of the Selectmen in advance may address the Board of Selectmen on matters of interest to the public for not more than five (5) minutes.

6. Review/Approve Meeting Minutes

- **Regular Session:**

- **Monday, February 7, 2011**

The Board reviewed the minutes of Monday February 7, 2011 and voted unanimously on a motion by Selectman Reault, second by Selectman Jackson to approve the minutes of Monday February 7, 2011.

- **Executive Session:**

- **Monday, November 22, 2010**

- **Monday, February 7, 2011**

The Board reviewed the executive session minutes of Monday November 22, 2010 and voted unanimously on a motion by Selectman Reault, second by Selectman Jackson to approve and release the executive session minutes of Monday November 22, 2010.

The Board reviewed the executive session minutes of Monday February 7, 2011 and voted unanimously on a motion by Selectman Reault, second by Selectman Jackson to approve but not release the executive session minutes of Monday February 7, 2011.

7. Correspondence

Correspondence is posted at www.tyngsboroughma.gov with approved meeting minutes, per the requirements of the Massachusetts Open Meeting Law.

The Board voted unanimously on a motion by Selectman Reault, second by Selectman Jackson to accept the correspondence as read. The Board needs to take action on a letter received from the Building Commissioner stating that the Department of Public Safety has implemented the new requirement that all Sheet Metal/HVAC Installers must be licensed and re required to pull separate permits (like Plumbing, Gas and Electrical). The Town will be required to issue Mechanical Permits as of Wednesday, February 23, 2011. The Board voted unanimously on a motion by Selectman Reault, second by Selectman Jackson to support the implementation of the issuance of Mechanical Permits and recommend a fee of \$125.00 for the inspection of metal HVAC.

The Board received a letter from the Highway Administrator asking for additional snow and ice money. The Board voted unanimously on a motion by Selectman Lemoine, second by Selectwoman Coughlin that we the Board of Selectmen and the Finance Committee in accordance with Chapter 44, section 31D, of Massachusetts General Laws, do hereby authorize the Town Accountant to issue warrants and the Town Treasurer to pay such warrants in excess of funds for snow and ice removal, such warrants not to exceed \$100,000. Expenditures made under this authority shall be certified to the Board of Assessors and included in the next annual tax rate.

8. Selectmen's Reports

- **Selectman O'Neill – Capital Asset Management Committee**

The Capital Asset Management Committee will meet this week. The budget process is a great amount of work and we may need to push back the Annual Town Meeting. This evening Selectwoman O'Neill announced that she would not seek re-election. As Selectwoman Miss O'Neill has given a tremendous amount her time to the various projects that have come before the Board. She has sat on many committees, ie, the EEAC the CAMC, served as the Board representative to the NMCOG, and has attended many functions in Town. The next three years will be very busy and will

not be able to give the time needed. Thank you to all for your support for these past three years. Selectman Lemoine – It takes a lot to make that kind of decision, you have served with the best integrity possible, thank you.

- Selectman Coughlin – Energy and Environmental Affairs/Licenses/Insp/Utilities

Selectwoman Coughlin is working with the Planning Board on the draft Wind Energy By-law and will receive the final number for the Town Hall/Library Project.

- Selectman Reault – Northern Middlesex Council Of Government

Selectman Reault congratulated the High School students' success on their performance at a sold out audience. The students put on the play Miss Saigon, they did a great play. Also congratulation to the Boys wrestling team they won the Division 3 state championship, and congratulation to the Basketball team for their win.

- Selectman Lemoine – Economic Development

Selectman Lemoine announced the open auction sponsored by the Tyngsborough Scholarship Committee all are welcome to attend.

- Selectman Jackson – Insurance Committee/Meeting Minute Status

Selectman Jackson announced the Insurance Committee is meeting on Wednesday at 6:30PM and all are welcome to attend.

9. Town Administrator's Reports – No report this evening.

10. 8:00 P.M. Executive Session

The board may move to go into executive session to discuss strategy with respect to collective bargaining, litigation, or exempt negotiations if an open meeting may have a detrimental effect on such subject matters.

- Collective Bargaining
- Litigation
- Personnel

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11. Adjournment

The Board voted unanimously on a motion by Selectman Reault, second by Selectman Jackson to adjourn the meeting. The meeting adjourned at 9:20 P.M.

Respectfully Submitted

Therese Gay

Approved on *Monday May 23 2011*



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Office of the Selectmen

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Tyngsborough, MA 01879

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Board of Selectmen Meeting Agenda

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- **Personnel**

2. 6:00 PM Open Meeting

3. New Business

- **6:05 PM Joint meeting with Planning Board**
 - Appointment to fill current vacancy
- **6:20 PM Alcoholic Beverage Licenses:**
 - Wine and Malt Restaurant License Request – New License - Feng Shui Express, Inc., 150 Westford Road
 - One Day Special License Request – Notre Dame Academy
 - One Day Special license Request – Greater Lowell Technical High School
- **Town Building Access**
- **Adams Barn – Use of Allocated Funds for Repairs**

4. Old Business

- **Designate Appointee for Sewer Design and Construction Committee**
- **Plumbing/Gas and Wiring Inspector – Appointments**
- **Electricity Supply Contract**

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- Selectman O'Neill – Capital Asset Management Committee
- Selectman Coughlin – Energy and Environmental Affairs/Licenses/Insp/Utilities
- Selectman Reault – Northern Middlesex Council Of Government
- Selectman Lemoine – Economic Development
- Selectman Jackson – Insurance Committee/Meeting Minute Status

9. Town Administrator's Reports

Report is available online at www.tyngsboroughma.gov

- Response to Selectmen's Requests
- Budget
- Departmental Information
- Contracting/Procurement
- Other

10. 8:00 P.M. Executive Session

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- Collective Bargaining
- Litigation
- Personnel

11. Adjournment

Future Meetings

Next Selectmen's Meeting Monday, March 14, 2011 at 6:00 P.M. at Town Hall Offices.

CHARLES J. ZAROULIS LAW OFFICES

May 18, 2011

40 Church Street, Suite 500, Lowell, Massachusetts 01852-2686
Telephone (978) 458-4583
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Ms. Therese Gay, Admin. Assistant
Town Hall
25 Bryants Lane
Tyngsborough, MA 01879

File: Tyngsborough

**Re: Board of Selectmen Minutes
February 28, 2011
Feng Shui**

Dear Terry:

Minutes reflect that Selectwoman Coughlin left the room before the hearing which was scheduled for 6:20 pm for Feng Shui. The vote throughout the hearing was 4 - 0, and does not state that Selectwoman Coughlin abstained or recused herself.

The minutes reflect that Selectwoman Coughlin re-entered the meeting at 6:55 pm after #4, Old Business. The Board had voted 4 - 0 to recess for five minutes at 6:50 pm and the Board returned to session at 6:55 pm.

It appears that the four concerns of Selectwoman Coughlin in her email of April 11, 2011, have been addressed.

To my knowledge there is no statutory requirement that minutes must be approved or that they be approved only by those present. In any event, if only three selectmen are present at the time to approve minutes in order to make a quorum, which would include Messrs. Reault and Jackson, they could vote to approve and a majority of the quorum (three), is two.

Please call if you have any questions or additional issues or to discuss

Sincerely yours,


Charles J. Zaroulis
Town Counsel

CJZ:ksz

Tyngs/BOS Minutes Letter to TG

FAX #:

TO:

FROM:

DATE:

COMMENT:

978-649-2320
T. Gay
Charles J. Zaroulis, Esq.
5-19-11
FYI